S.B. CIVIL WRIT PETITION NO.1296/1996
Jeeta Ram & Anr.
vs
Chief Engineer Irrigation Hanumangarh, Junction & Ors.

DATE OF ORDER : - 20.8.2007

HON'BLE MR.PRAKASH TATIA,J.

Mr.Vijay Agarwal, for the petitioner.
Mrs.RR Kanwar, Dy.GA for the respondent – State.
Mr. SL Jain, for the respondents. .

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Heard learned counsel for the parties.

The petitioners are aggrieved against the order dated 21st Dec., 1995 passed by the Chief Engineer, Irrigation Hanumangarh Junction.

Brief facts of the case are that the respondent Buta Singh & Ors preferred an appeal before the Chief Engineer, Irrigation, Hanumangarh Junction to challenge the order of the Superintending Engineer dated 6.2.995 and the Chief Engineer, Irrigation, Hanumangarh Junction vide impugned order dated 21st Dec., 1995 refused to exercise its jurisdiction on the ground that since the litigations are pending between the parties and, therefore, in view of the standing order no.13 issued by the Superintending Engineer (date not mentioned) (Annex.6) because of the pendency of the some other litigations between the parties, the learned Chief

Engineer refused to issue water turn slip in favour of the said appellant.

After the order dated 21st Dec., 1995, 12 orders have already been passed and according to learned counsel for the petitioners even in those litigations, the orders ultimately have been passed in favour of the petitioners. It is submitted that even prior to order dated 21st Dec., 1995, the orders of the competent authorities were in favour of petitioners and they were not recognized because of the reason that respondent preferred appeal. According to learned counsel for the petitioners that appeal has already been dismissed vide order dated 11.2.1997. Learned counsel for the petitioners submitted that if the respondent has preferred any appeal to challenge the said order dated 11.2.1997 then that fact is not in the knowledge of the petitioner and therefore, he has also no knowledge that whether any interim order has been passed in the said appeal if preferred by the respondent or not.

Learned counsel for the respondent has also no knowledge about filing of any appeal against the order dated 11.2.1997 or any interim order which may have been passed by the competent authority in favour of the respondent.

Be that as it may be, in view of the fact that the proceedings for obtaining water turn slips were initiated long back and no final decision was taken on account of pendency of other litigation, therefore, petitioners may appear before the Superintending

Engineer concerned with proper application and may submit their claim on the basis of their rights as well as on the basis of any orders passed prior to 21st Dec., 1995 and, thereafter, the Superintending Engineer concerned, may decide the claim of the parties strictly in accordance with law and by following the directions if have been issued by any competent court or authority in this respect. However, it is made clear that if there is no interim order passed by any competent court or authority higher than the Superintending Engineer himself then the Superintending Engineer will decide the matter and will not defer the matter only on the ground of pendency of any matter before any other authority unless and until any interim order is placed before the Superintending Engineer. Both the parties are directed to appear before the concerned Superintending Engineer on 17th Sept., 2007.

In view of the above, the writ petition of the petitioners is disposed of with above directions.

(PRAKASH TATIA), J.

c.p.goyal/-